

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: Alan R. Fritzberg et al.

Title: HIGH DOSE RADIONUCLIDE COMPLEXES FOR BONE MARROW SUPPRESSION

Docket No.: 295.044US3

Filed: February 23, 2004

Examiner: Dameron L. Jones

Serial No.: 10/784,476

Due Date: July 16, 2005

Group Art Unit: 1618

MS Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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☒ A return postcard.

☒ Response to Restriction Requirement (2 Pages).

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

Customer Number 21186

By: 

Atty: Warren D. Woessner

Reg. No. 30,440

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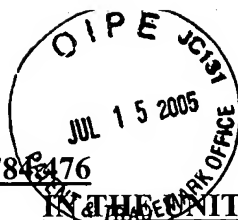
KATE GANNON
Name

Kate G
Signature

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

(GENERAL)

S/N 10/784,476



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Alan R. Fritzberg et al.	Examiner:	Dameron Jones
Serial No.:	10/784,476	Group Art Unit:	1618
Filed:	February 23, 2004	Docket:	295.044US3
Title:	HIGH DOSE RADIONUCLIDE COMPLEXES FOR BONE MARROW SUPPRESSION		

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant has reviewed the Restriction Requirement mailed June 16, 2005, wherein the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. 121:

- I. Claims 52 and 53, drawn to a method of treating non-cancerous diseases in or near bone as set forth in independent claims 522, classified in class 424, subclass 1.11+.
- II. Claims 80-81, drawn to a method of treating a subject afflicted with a hematopoietic genetic defect as set forth in independent claim 80, classified in class 424, subclass 1.11+.
- III. Claims 86-95, drawn to a method of treating osteomyelitis as set forth in independent claim 86, classified in class 424, subclass 1.11+.

Applicants elect, with traverse, to prosecute the claims of Group III. It is clear that the inventions of claims 52-53 and 86-95 are so closely related that they cannot be considered independent and distinct under 35 U.S.C § 112. This is in fact evidenced by their identical classification. Therefore, there would be no substantial additional burden in searching claims 52-53 and 86-95 at the same time. Also, claim 52 is generic to claim 86 with respect to the target disease. Therefore, withdrawal of the requirement, in part, is appropriate and is respectfully requested.

Applicants have reviewed the Election of Species Requirement wherein the Examiner has required Applicants under 35 U.S.C. §121 to elect a single disclosed species.

Claims 86-95 are asserted to be generic to a plurality of disclosed patentably distinct species comprising a radionuclide complexed with a bone targeting ligand. Applicants elect the species of claim 93, ^{166}Ho -DOTMP.

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Conclusion

The Examiner is invited to telephone Applicant's attorney at (612) 373-6903 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ALAN R. FRITZBERG ET AL.

By their Representatives,

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Date

7-13-05

By



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Name

KATE GANNON

Signature

